Climax Telephone Company
and
Michigan Based Communications Companies

Hearing with House Energy and Technology Committee

Tuesday October 11, 2005

HB 5237
Fundamental Goals

- Consumer Protection
- Advancement of Competition and Technology
- Creation of Investment and Jobs
- Economic Development

HB 5237
MBCC Employment and Investment

- Over 100,000 use our services
- Over 250 employees
- Over 900 miles of fiber optic cable
- $65 Million in investment

HB 5237

- Access to the Last Mile at a Reasonable Rate

  --Reasonable Rates

  - TSLRIC can be volatile
  - Special access is not cost based and very expensive
  - Analogous Service

HB 5237

- Efficient and Timely Interconnection
  - Negotiating for 4 years
  - Arbitrating for 14 months
  - Old Agreement 129 pages with 6 amendments totaling 182 pages
  - Arbitrated Agreement 441 pages with 7 amendments totaling 154 pages
  - SBC 13 state Agreement 483 pages
  - AND THIS DOESN'T INCLUDE PRICING NEGOTIATION (Pricing set by TSLRIC)

HB 5237

- MPSC must be able to resolve all disputes between providers
  - --The Courts are not the place for timely resolution
  - --The bill makes a good move towards making courts review limited
  - --We need to empower the MPSC

HB 5237

- TSLRIC pricing needs a just and reasonable standard
  - --In a declining cost industry, price increases require scrutiny
  - --Accountants can make the number do many things
  - --Producer Price Index provides a yardstick to measure changes

HB 5237

- Resale rates must be lower than retail rates
  - --Retail Rates Less Avoidable Costs is the standard
  - --Retail Rates must be determined in order to price wholesale rates
  - --The lowest rate offered to a customer is a reasonable proxy versus following all rates possible

HB 5237

Thank you for your time

Together, we can make Michigan a leader in providing telecommunications service to our citizens

TESTIMONY OF GILBERT A. COLLVER ON BEHALF OF THE MICHIGAN BASED COMMUNICATIONS CARRIERS (MBCC) BEFORE THE ENERGY AND TECHNOLOGY COMMITTEE

October 11, 2005

GOOD MORNING LADIES AND GENTLEMEN, MY NAME IS GIL COLLVER AND I AM THE OWNER AND PRESIDENT OF CLIMAX TELEPHONE COMPANY WHOSE BUSINESS ADDRESS IS 110 NORTH MAIN STREET, CLIMAX, MICHIGAN.

I AM HERE TODAY TO PRESENT TESTIMONY ON BEHALF OF THE MICHIGAN BASED COMMUNICATIONS CARRIERS. FOR YOUR INFORMATION, THE MBCC IS A GROUP OF TELECOMMUNICATIONS CARRIERS ALL OF WHOM ARE MICHIGAN OWNED, HEADQUARTERED AND OPERATED. WE ARE A DIVERSE GROUP OF COMPANIES EACH WITH OUR OWN INDIVIDUAL CHARACTERISTICS, BUT UNITED IN ONE CAUSE, THAT BEING TO PROVIDE BUSINESS AND RESIDENTIAL CUSTOMERS THROUGHOUT THE STATE WITH, HIGH QUALITY, INNOVATIVE AND COMPETITIVELY PRICED TELECOMMUNICATION SERVICES. WE CURRENTLY SERVE IN EXCESS OF 100,000 BUSINESS AND RESIDENTIAL CUSTOMERS.

WE UNDERSTAND THAT THE LEADERSHIP OF THIS COMMITTEE HAS FOUR FUNDAMENTAL GOALS FOR HOUSE BILL 5237:

1. CONSUMER PROTECTION
2. THE ADVANCEMENT OF COMPETITION AND TECHNOLOGY
3. CREATION OF INVESTMENT AND JOBS
4. ECONOMIC DEVELOPMENT

WE SUPPORT AND APPAULD THOSE GOALS BOTH IN PRINCIPLE AND IN PRACTICE. MY TESTIMONY WILL DEMONSTRATE HOW OUR PAST ACTIVITIES HAVE SUPPORTED THOSE GOALS AND OUTLINE THE PROVISIONS WE BELIEVE MUST BE INCLUDED IN THIS LEGISLATION TO PERSERVE THE COMPETITIVE ENVIRONMENT IN THE STATE AND ENABLE US TO CONTINUE TO SUPPORT THOSE OBJECTIVES.

I BELIEVE THAT THE BEST PROTECTION OF THE CONSUMERS INTERESTS IN THE TELECOMMUNICATIONS MARKETPLACE IS THE PRESENCE OF AN ACTIVE, AGGRESSIVE AND INNOVATIVE GROUP OF COMPETITORS VYING FOR THEIR BUSINESS. THE MEMBERS OF MBCC HAVE WORKED LONG AND HARD TO PROVIDE VITAL AND VIBRANT COMPETITION IN THOSE MARKETS WHERE WE OPERATE. I BELIEVE THE SIMPLE FACT THAT WE ARE STILL FUNCTIONING AND GROWING WHERE MANY OTHERS HAVE

FAILED, WITHDRAWN OR RETREATED IS TESTAMENT TO THE COMMITMENT WE HAVE TO THE CITIZENS OF OUR GREAT STATE. IT IS ALSO WORTH NOTING THAT AS LOCALLY OWNED AND OPERATED BUSINESSES, OUR CUSTOMERS ARE ALSO OUR FRIENDS AND NEIGHBORS. WHILE PRICE COMPETITION AND SERVICE INNOVATIONS ARE CLEARLY IMPORTANT ELEMENTS, GOOD OLD FASHIONED PERSONAL SERVICE PROVIDED BY A COMPANY THAT IS RESPONSIVE, FLEXIBLE AND MOST IMPORTANTLY ACCOUNTABLE BRINGS GREAT VALUE AND PROTECTION TO THE CONSUMER.

A CRUCIAL ELEMENT OF EFFECTIVE COMPETITION IN OUR INDUSTRY IS THE APPLICATION OF ADVANCED TECHNOLOGY. TECHNOLOGY SERVES TWO VERY IMPORTANT FUNCTIONS IN TELECOMMUNICATIONS. FIRST, IT IMPROVES EFFICIENCY. WE ARE IN A DECLINING COST INDUSTRY.

THANKS TO TECHNOLOGY, WE ARE ABLE TO PROVIDE MORE SPEED, BETTER DEPENDABILITY AND INCREASED CAPACITY WITH THE EXISTING COPPER DISTRIBUTION NETWORK AND THEREBY REDUCING COSTS AND LOWERING PRICES. SECOND, TECHNOLOGICAL ADVANCEMENTS IN TELECOMMUNICATIONS HAVE SIGNIFICANTLY CHANGED THE WAY WE LIVE AND WORK. JUST THINK ABOUT THE IMPACT THAT WIDELY AVAILABLE CELL PHONE, EMAIL, AND INTERNET INFORMATION HAVE HAD ON YOUR LIFE IN THE LAST 5 YEARS.

I HAVE SPEND A CAREER SPANNING NEARLY 40 YEARS IN THIS INDUSTRY AND CAN ATTEST TO THE FACT THAT THERE HAS BEEN MORE ADVANCEMENT IN TECHNOLOGY AND ENHANCEMENTS IN SERVICES IN THE PAST 8 YEARS UNDER COMPETITION THAN OCCURRED IN THE PRECEEDING 32 YEARS OF REGULATED MONOPOLIES. THE MEMBERS OF MBCC HAVE MADE A SIGNIFICANT CONTRIBUTION TO THAT ADVANCEMENT. WE PLEDGE TO CONTINUE THAT EFFORT, BUT NEED YOU TO SUPPORT OUR EFFORTS BY MAKING SURE WE HAVE A BUSINESS ENVIRONMENT CONDUCIVE TO FREE AND OPEN COMPETITION.

THE MEMBERS OF MBCC HAVE ALSO PROVIDED BOTH INVESTMENT AND JOBS GROWTH IN THE STATE. WE HAVE INVESTED APPROXIMATELY $65 MILLION IN TELECOMMUNICATIONS INFRASTRUCTURE IN OUR SERVICE AREAS. WE HAVE ALSO PROVIDED JOBS FOR APPROXIMATELY 250 MICHIGAN CITIZENS. EQUALLY AS IMPORTANT AS THE QUANTITY IS THE QUALITY OF THESE JOBS. WE EMPLOY HIGHLY TRAINED AND SKILLED TECHNICIANS, ENGINEERS AND CUSTOMER SERVICE REPRESENTATIVES. THESE ARE THE KIND OF JOBS MICHIGAN NEEDS AS OUR STATE'S ECONOMY CONTINUES TO MOVE FROM MANUFACTURING TO INFORMATION AND TECHNOLOGY.

FOR EXAMPLE, CLIMAX TELEPHONE COMPANY WORKED IN COOPERATION WITH BATTLE CREEK UNLIMITED AND THE CITY OF BATTLE CREEK TO ESTABLISH A FIBER OPTIC NETWORK THAT COVERS THE DOWNTOWN AREA OF BATTLE CREEK AS WELL AS THE FORT CUSTER INDUSTRIAL PARK. THE SYSTEM HAS A SONET RING ARCHITECTURE WHICH PROVIDES DEPENDABLE VOICE AND HIGH SPEED DATA TO CONSUMERS THROUGHOUT THE CITY. WE ARE ALSO CONSTRUCTING A SIMILAR NETWORK TO BE COMPLETED THIS YEAR IN KALAMAZOO WHICH WILL LINK THE TWO CITIES TOGETHER IN A REGIONAL BROADBAND NETWORK. ACD NET HAS CONSTRUCTED OVER 280 MILES OF FIBER OPTIC CABLE IN LANSING. IN FACT, THE INTERNET AND TELEPHONE CAPACITIES THAT YOU USE IN THIS BUILDING ARE PROVIDED ON THAT NETWORK. THE AVAILABILITY OF BROADBAND SERVICES IS AN ESSENTIAL ELEMENT IN THE ECONOMIC DEVELOPMENT PLANS OF ALL PROGRESSIVE MUNICIPALITIES. THROUGH THE CONSTRUCTION OF OVER 900 MILES OF FIBER OPTIC CABLE IN OUR NETWORKS, THE MEMBERS OF MBCC ARE SIGNIFICANT CONTRIBUTORS TO THESE ECONOMIC DEVELOPMENT PLANS.

WE HAVE DEVELOPED FIVE KEY AMMENDMENTS THAT WILL HELP ASSURE THAT OUR MEMBERS CAN CONTINUE TO PROVIDE COMPETITIVE SERVICES IN MICHIGAN.

FOR FACILITY BASED COMPETITORS, CONTINUED ACCESS TO INCUMBENT INFRASTRUCTURE AT JUST AND REASONABLE RATES ALLOWS THE NEW TECHNOLOGIES TO BE DEPLOYED. LIKE ALL FACILITY BASED PROVIDERS IN MBCC, WE HAVE CONSTRUCTED FIBER INTERCONNECTION BETWEEN OUR CENTRAL OFFICE AND THE INCUMBANTS OFFICES WHERE WE HAVE COLLOCATED OUR EQUIPMENT. WE THEN USE INCUMBANTS COPPER NETWORK TO EXTEND OUR TELECOMMUNICATIONS AND BROADBAND SERVICES TO THE CONSUMER. THIS IS WHAT "ACCESS TO THE LAST MILE" REALLY MEANS. AS I EXPLAINED WE HAVE A SUBSTANTIAL FIBER OPTIC NETWORK AND WHENEVER ECONOMICALLY PRACTICAL WE CONNECT OUR CUSTOMERS DIRECTLY TO THAT NETWORK. BUT FOR THE VAST MAJORITY OF END USERS THE INCUMBENT NETWORK REMAINS THE ONLY EFFICIENT MEANS OF CONNECITON TO PROVIDERS. ALLOWING THAT CAPABILITY TO BECOME A MONOPOLY CHOKE HOLD ON COMPETITION IS SIMPLY UNACCEPTABLE. IMAGINE, MAYTAG TRYING TO COMPETE WITH WHIRLPOOL IF WHIRLPOOL OWNED THE ONLY PROVIDER OF APPLIANCE GRADE STEEL.

UP TO NOW THE FCC RULES FOR THE PROVISION OF UNBUNDLED NETWORK ELEMENTS HAVE ASSURED THAT THESE FACILITIES ARE AVAILABLE UNDER FAIR TERMS AND AT JUST AND REASONALBE RATES. UNDER THE UNE RULES THE STATES ARE RESPONSIBLE FOR SETTING THOSE RATES AND OVERSEEING THOSE TERMS AND CONDITIONS.

RECENT RULINGS BY THE FCC HAVE CREATED CIRCUMSTANCES WHERE THE INCUMBENT PROVIDERS MAY NO LONGER BE REQUIRED TO PROVIDE THOSE UNBUNDLED NETWORK ELEMENTS. THE FCC FURTHER STIPULATES THAT THESE UNBUNDLED NETWORK ELEMENTS SHOULD BE REPLACED BY ANALAGOUS SERVICES. THE MICHIGAN PUBLIC SERVICE COMMISSION MUST HAVE THE AUTHORITY TO DETERMINE WHAT CONSTITUTES AN ANALAGOUS SERVICE AND TO ASSURE THAT THOSE SERVICES ARE AVAILABLE AT JUST AND REASONALBE RATES. FOR EXAMPLE, ONE UNBUNDLED NETWORK ELEMENT OR UNE IS CURRENTLY PRICED AT APPROXIMATELY $70 PER MONTH. UNDER THE INCUMBENTS PROPOSAL FOR ANALAGOUS SERVICE THE NEW RATE WOULD BE $335 PER MONTH. SHOULD A SERVICE BE CONSIDERED ANALAGOUS THAT HAS A PRICE INCREASE OF NEARLY FOURFOLD?

FOR ALL COMPETITORS A COMMON REQUIREMENT IS THAT WE MUST HAVE AN INTERCONNECTION AGREEMENT WITH THE INCUMBENT PROVIDER. THIS AGREEMENT CONTAINS THE TERMS AND CONDITIONS UNDER WHICH THE TWO PARTIES WILL INTERCONNECT THEIR NETWORKS AND EXCHANGE TRAFFIC. THIS IS OUR ORIGINAL AGREEMENT WHICH WAS NEGOTIATED, ARBITRATED AND APPROVED OVER A 6 MONTH PERIOD IN 1997. WE BEGAN NEGOTIATIONS FOR A SUCCESSOR AGREEMENT IN 2000, BOTH PARTIES AGREED TO ABIDE BY THE ORIGINAL AGREEMENT IN THE INTERIM.

OUR ORIGINAL AGREEMENT HAD 129 PAGES. AMENDMENTS TOTALLING 182 PAGES WERE ADDED OVER THE ENSUING 8 YEARS. THE GENERIC AGREEMENT THAT THE INCUMBENT PROPOSED AS A REPLACEMENT HAS 483 PAGES. WHEN THEY REFUSED TO USE THE ORIGINAL AGREEMENT AS THE BASIS FOR NEGOTIATION AND WE DECLINED THEIR GENERIC SUBSTITUTE, IT WAS ULTIMATELY AGREED TO USE THE ALREADY APPROVED MCI AGREEMENT AS THE BASIS FOR NEGOTIATION. THE MCI AGREMENT IS 441 PAGES. WE PROPOSED THAT THIS APPROVED AGREEMENT BE ADOPTED BY SIMPLY INCORPORATING A FEW MODIFICATIONS THAT RESULTED FROM ISSUES WHICH THE MPSC HAD ALREADY DECIDED IN OUR INITIAL ARBITRATION.

THE INCUMBENT PROVIDER REFUSED AND AS A RESULT WE HAVE BEEN ATTEMPTING TO NEGOTIATE A COMPROMISE AGREEMENT FOR THE PAST 18 MONTHS. THIS EFFORT IS WASTEFUL OF THE LIMITED RESOURCES OF OUR COMPANY AND AN IMPEDIMENT TO OUR FORWARD PROGRESS. THE LEGISLATION MUST ADDRESS THIS PROBLEM BY REQUIRING THAT EXISTING AGREEMENTS BE USED AS THE BASIS FOR A SUCCESSOR AGREEMENT AND BY ASSURING THAT THE SAME ISSUES ARE NOT ARBITRATED OVER AND OVER AGAIN. ALL MBCC MEMBERS HAVE HAD SIMILAR EXPERIENCES.

THE THIRD PROVISION IS TO EMPOWER THE MPSC TO RESOLVE ALL DISPUTES BETWEEN PROVIDERS, NOT JUST THOSE RELATED TO REGULATED SERVICES. THE MPSC IS BETTER POSITIONED TO RESOLVE THESE CONFLICTS THAN THE COURTS, SINCE THEY HAVE THE EXPERTISE, EXPERIENCE, RESOURCES, AND PROCESS IN PLACE.

IN THE PAST EFFECTIVE BUT EXPENSIVE CHALLENGES TO COST STUDIES HAVE BEEN UNDERTAKEN BY THE LARGEST COMPETITORS IN THE INDUSTRY, NAMELY AT&T AND MCI. SMALLER COMPETITORS HAVE BEEN ABLE TO RELY ON THESE EFFORTS TO PROTECT THEIR INTERESTS. NOW THAT THESE LARGE COMPETITORS ARE WITHDRAWING FROM THE MARKET AS A RESULT OF MERGERS OTHER PROVISIONS NEED TO BE IMPLEMENTED TO PROTECT AGAINST UNREASONABLE COST INCREASES. MBCC BELIEVES THAT THE PRODUCER PRICE INDEX PROVIDES A VALID YARDSTICK FOR MEASURING THE REASONABLENESS OF COST CHANGES. PROPOSED COST INCREASES THAT EXCEED THE PPI SHOULD BE SUBJECTED TO A THOROUGH SCRUTINY.

THE FIFTH PROVISION IS DESIGNED TO ESTABLISH CIRCUMSTANCES UNDER WHICH COMPETITION CAN ULTIMATELY REGULATE PRICING, WHOLESALE RATES FOR RESALE SERVICES MUST BE LESS THAN RETAIL RATES. AS THE RATES CHARGED TO THE END USER ARE DEREGUALTED, TRADITIONAL MECHANISMS SUCH AS FILING END USER RATES IN TARIFFS ARE ELIMINATED. REGULATION OF WHOLESALE RATES AS REQIURED UNDER THE FEDERAL ACT WILL ENSURE THAT REDUCED RETAIL RATES ARE PUT IN PLACE ONLY FOR THE CONSUMERS BENEFIT AND NOT FOR CRUSHING THE COMPETITION. SOME MBCC MEMBERS ARE EXPANDING THEIR SERVICE FOOTPRINTS AND CUSTOMER BASE BY USING A RESALE MODEL AND TRANSITIONING TO A FACILITY BASED ENVIRONMENT WHEN ECONOMIC AND COSTS CONDITIONS ARE MET.

IN SUMMARY, IT IS NO MISTAKE THAT MCHIGAN HAS BEEN ON THE LEADING EDGE OF TELECOMMUNICATIONS REFORM. TECHNET, AN ORGANIZATION FOUNDED BY MICROSOFT, INTEL, AND CISCO SYSTEMS RANKED MICHIGAN AS HAVING THE BEST BROADBAND POLICY. THE DETRIOT METRO AREA IS RANKED 3RD BY AC NEILSON IN BROADBAND PENETRATION AHEAD OF SEATTLE, AUSTIN, BOSTON, SAN FRANCISCO, AND LOS ANGELES. WE SUPPORT LESS GOVERNMENT REGULATION HOWEVER IT TOOK OVER 100 YEARS TO GET WHERE IT IS TODAY. COMPETITION FOR LOCAL SERVICES HAS ONLY BEEN IN PLACE FOR 9 YEARS, IT MAYBE UNREALISTIC TO BELIEVE WE HAVE REACHED THE POINT THAT THERE IS NO MORE NEED FOR GOVERNMENTAL OVERSITE OF THIS PROCESS.

THANK YOU FOR THE TIME TO EXPRESS OUR VIEWS.

WITH ANY TIME REMAINING TO US, WE WOULD BE PLEASE TO ANSWER ANY QUESTIONS THE COMMITTEE MAY HAVE.

MICHIGAN-BASED COMMUNICATIONS CARRIERS

Critical Amendments

1. Require Wholesale Rates to be Less than Retail Rates

Rationale: For competition to be viable, wholesale rates for network elements and resale must be set at levels less that retail rates to insure sustainable investment by all parties

484.357A WHOLESALE RATES

SEC. 357A
AN INCUMBENT PROVIDER'S WHOLESALE OFFERINGS SHALL BE AT RATES BELOW ITS RETAIL OFFERINGS. THE RETAIL RATE OF A PROVIDER SHALL BE THE LOWEST RATE AT WHICH THE PROVIDER OFFERS THE RETAIL SERVICE, TAKING INTO ACCOUNT THE SPECIFIC TERMS, CONDITIONS AND MONETARY INDUCEMENTS THAT AFFECT THE OVERALL PRICE OF THE SERVICE.

2. Provide the Commission with Jurisdiction to Resolve All Telecommunications Disputes

Rationale: The Commission should have the authority and power to resolve all telecommunication disputes between providers and between providers and customers, not just disputes regarding a "regulated" telecommunications issue. If the Commission doesn't have authority to resolve a telecommunications dispute, Circuit Court judges, who do not have the expertise, will have to decide such matters. Such a requirement would be wasteful, inefficient; more likely reach the incorrect decision, and delay competition.

In addition, if the Legislature is deregulating all services except for one voice residential access line service, the inclusion of the word "regulated" in this section would mean that the Commission would jurisdiction to resolve very few disputes.

Sec. 204. If 2 or more telecommunication providers are unable to agree on a matter relating to a ~~**regulated**~~ telecommunication issue between the parties, including but not

limited to, a matter prohibited by section 305, then either telecommunication provider may file with the commission an application for resolution of the matter.

3. Improve the Process for Negotiating Interconnection Agreements

Rationale: The current interconnection process has few existing guidelines. The fact is that delay in the interconnection process works disadvantages the CLEC. The CLEC needs interconnection with the ILEC to operate. The ILEC does not need or even desire interconnection with the CLEC. The result is that gamesmanship can significantly delay the process. It is not unusual for negotiation/arbitration of successor interconnection agreements to take years to complete.

Two main tactics add a tremendous amount of unnecessary cost and delay to the process. First, when interconnection agreements expire, the ILEC proposes an entirely new baseline agreement to start negotiations from. Both the existing agreement and new baseline agreement are frequently hundreds of pages in length. When the new baseline agreement has little resemblance to the parties' existing interconnection agreement (which is typically the case), it takes an inordinate amount of time simply to compare the two documents and much longer to discuss the "apple to oranges" changes. At times, the ILEC's proposed baseline agreement even proposes to change the existing physical network configuration under which the parties are currently operating.

The proposal here would continue to permit any party to propose changes to existing arrangements, but would require that party to carry the burden of persuasion regarding why the change is necessary. Subsection (1) would dramatically shorten the time necessary to negotiate successor interconnection agreements.

The second tactic is to relitigate issues that the Commission has already decided. Some issues have been relitigated before the Commission as many as six times. Besides the unnecessary burden of relitigation, a more fundamental problem exists. The issue that a party seeks to relitigate may be a fundamental and interrelated to numerous other issues. Thus, the party relying on commission precedent has to create a counter proposal on numerous issues that run throughout the agreement. It would be much more efficient if there were a process that determined at the *beginning* of negotiation discussions, rather than after discussions had concluded, whether the Commission would consider changing prior rulings.

484.2353A PROCESS FOR NEGOTIATING INTERCONNECTION AGREEMENT

SEC. 353A

(1) WHEN NEGOTIATING A SUCCESSOR INTERCONNECTION AGREEMENT, UNLESS THE PARTIES AGREE OTHERWISE, THE PARTIES SHALL USE THEIR CURRENT INTERCONNECTION AGREEMENT AS THE BASELINE DOCUMENT FOR NEGOTIATION. THE PARTY REQUESTING IN AN ARBITRATION PROCEEDING A CHANGE IN THE BASELINE DOCUMENT BEARS THE BURDEN OF PERSUASION THAT THE CHANGE IS NECESSARY.

(2) IF A PARTY NEGOTIATING AN INTERCONNECTION AGREEMENT WISHES TO TAKE A POSITION CONTRARY TO A PRIOR RULING OF THE COMMISSION IN ARBITRATION PROCEEDING, THE PARTY SHALL FILE A MOTION WITH THE COMMISSION DEMONSTRATING THAT GOOD CAUSE EXISTS TO RELITIGATE THE ISSUE. SUCH MOTION SHALL BE FILED NO LATER THAN 90 DAYS FROM THE COMMENCEMENT OF NEGOTIATIONS. THE COMMISSION SHALL RULE UPON THE MOTION WITHIN 21 DAYS OF ITS FILING AND DETERMINE THE EXTENT TO WHICH THE ISSUE MAY BE RELITIGATED. A PARTY THAT BELIEVES THAT THE OTHER PARTY IS TAKING A POSITION CONTRARY TO A PRIOR RULING OF THE COMMISSION MAY ALSO FILE A MOTION FOR A DETERMINATION UNDER THIS SECTION.

4. Continue Access to Infrastructure at Reasonable Pricing

Rationale: If unbundled network elements no longer have to be provided to CLECs at price levels based on total service long run incremental cost, CLECs' access to the existing infrastructure must nevertheless be preserved for continued viability of facility-based competition. Continued access to analogous services should be ensured at just and reasonable price levels. The Commission should have the ability to determine whether offered services are analogous and determine what pricing levels are just and reasonable.

Sec. 352(3)

If an incumbent local exchange carrier is no longer required to provide access to unbundled network elements, the incumbent local exchange carrier shall offer access to analogous services at just and reasonable rates. The Commission shall determine whether a service is analogous and establish the incumbent local exchange carrier's pricing at just and reasonable rates.

Sec. 202. (1) In addition to the other powers and duties prescribed by this act, the commission shall do all of the following:

* * *

(c) Promulgate rules under section 213 and issue orders to establish and enforce quality standards for providing telecommunication services in this state. **TO ESTABLISH AND ENFORCE QUALITY STANDARDS FOR ALL OF THE FOLLOWING:**
(i) THE PROVISION OF BASIC LOCAL EXCHANGE SERVICE.
(ii) THE PROVISION OF UNBUNDLED NETWORK ELEMENTS, ~~AND~~ LOCAL INTERCONNECTION SERVICES, *AND ANALAGOUS SERVICES* TO PROVIDERS WHICH ARE USED IN THE PROVISION OF BASIC LOCAL EXCHANGE SERVICE.

Note: The capitalized bolded language in Section 202 appears in recent drafts of both the Senate and House Bills, which the MBCC supports. The language that is bolded, underlined and italicized is additional language proposed by the MBCC.

5. Use Producer Price Index as a Yardstick for TSLRIC Pricing

Rationale: Telecommunications is a declining cost industry. Yet new cost studies have frequently resulted in *higher* approved costs. Increases greater than the producer price index should need to meet a higher test.

SEC. XXX
(1) UNLESS THE COMMISSION MAKES A FINDING UNDER SUBSECTION (2), THE COMMISSION SHALL NOT APPROVE A TOTAL LONG-RUN INCREMENTAL COST STUDY OF A PROVIDER WITH MORE THAN 250,000 ACCESS LINES THAT IS AN INCUMBENT PROVIDER, AS DEFINED IN 47 U.S.C. SEC. 251 (H)(1) THAT RESULTS IN AN INCREASE IN THE WHOLESALE COST OF A SERVICE GREATER THAN A PRICE EQUAL TO THE CHANGE IN THE PRODUCER PRICE INDEX FROM THE DATE OF APPROVAL OF THE PROVIDER'S PREVIOUS COST STUDY.
(2) THE COMMISSION MAY FIND IN A CONTESTED CASE PROCEEDING THAT THE COST OF PROVIDING A SERVICE HAS INCREASED AT A RATE GREATER THAN THE PRODUCER PRICE INDEX.
(3) AS USED IN THIS SECTION, "PRODUCER PRICE INDEX" MEANS THE REPORTED ANNUAL AVERAGE PERCENTAGE INCREASE IN THE DETROIT PRODUCER PRICE INDEX FOR ALL ITEMS FOR THE PRIOR 12-MONTH PERIOD BY THE UNITED STATES DEPARTMENT OF LABOR.

Climax Telephone Company
House Bill No. 5237 Sub

Sec 102.(j). "Exchange" is a geographic area in which basic local exchange service is offered by a provider as described in the boundary descriptions contained in provider tariffs.

Discussion: An exchange has nothing to do with the 1 or more contiguous central offices and all associated facilities. Exchange is a concept that is relevant to the end user address regardless of the network configuration. This change in definition gives a direct linkage to the filed tariffs of the provider to assist the customer in understanding the exchange from which the purchase primary basic local exchange service.

Sec 102.(o). "Local calling area" means a geographic area encompassing 1 or more exchanges as described in boundary descriptions, maps, or rate schedules in tariffs filed with and approved by the Commission.

Discussion: This is a more accurate description and links directly to the documents that the customer can review to assist their understanding of local calling areas.

Sec102.(p). "Local directory assistance" means the provision by telephone of a listed number within the caller's area code dialed by 4-1-1.

Discussion: With the compression of area code boundaries and the expansion of local calling, the distinction of local directory assistance has changed. Local distant directory assistance dialed as Home NPA such as 1-517-555-1212 in Lansing is a toll service. Only 4-1-1, similar to 2-1-1 and 9-1-1, should be designated as local directory assistance. This makes in clear in customers minds on who is the service provider of local directory assistance and assists the various directory assistance providers understand clearly who has what responsibilities in providing full directory assistance coverage.

Sec. 211. Each telecommunications provider of a telecommunications service in this state shall pay a prorated assessment for the expenses of the commission pursuant to 1972 PA 299, MCL 460.111 to 460.120. Prorating will be based on total intrastate telecommunication revenues.

Discussion: The determination of the assessment of the cost of the MPSC should be further defined. The original language is confusing and leads one to believe that each provider maybe responsible for the total cost of the commission.

Climax Telephone Company
House Bill No. 5237 Sub

Sec. 301. (1). A telecommunications provider shall not provide or resale telecommunication service in this state, without a license from the commission under this act.

Discussion: We don't believe the language intended not to license providers other than those providing primary basic local exchange service. The commission needs a record of those providers offering other services to adequately service customer inquiries and complaints as well for assessments under Sec. 211.

Sec 252. (8). A public entity offering telecommunication services is subject to all the provisions of this act and the Federal Telecommunications Act.

Discussion: Any entity providing telecommunications services should be subject to cramming, slamming, equal access, interconnection, 4-1-1, 9-1-1, 2-1-1, licensing, and all other provisions of state and federal law. Section 252 should not create a protected class of provider if a public entity ultimately provides telecommunications services.

Sec 302. (a). The applicant possesses sufficient technical, financial, and managerial resources and abilities to provide telecommunication service within a geographic area of the license and that the applicant intends to provide service within 1 year from the date the license is granted.

Discussion: We don't believe the language intended not to license providers other than those providing primary basic local exchange service. The commission needs a record of those providers offering other services to adequately service customer inquiries and complaints as well for assessments under Sec. 211.

Climax Telephone Company
House Bill No. 5237 Sub

Sec 304. (1). The rates for primary basic local exchange service shall be just and reasonable. Each provider shall issue tariffs of the initial rates for primary basic exchange service to be effective no later than April 1, 2006. The initial rates may not exceed the rates for the lowest cost calling plan of the provider in place before the rates are set under this subsection unless the rate in place do not exceed the total service long run incremental costs of the service.

Discussion: Initial rates for a price regulated service are set through a tariff, which permits the commission the vehicle to observe, comment, or approve. The "rates" should be the "service".

Sec 304. (2).(c). Filing with the commission an application to increase a primary basic local exchange rate in an amount greater than that allowed under subsection (1). The application shall be accompanied with sufficient documentary support that the rate alteration is just and reasonable. The commission shall make a determination, within a 90-day period of the filing of the application, of the following

Discussion: The customers have been noticed that a rate change has been requested consistent with Sec 304 (4). If the commission doesn't rule in a timely manner, the end user is left hanging on whether the rate alteration is granted or not. The end user should have a right to understand in a timely manner that a rate change is taking place or not.

Sec 304. (5). A provider may charge a late a payment fee to customers who do not make timely payments of the outstanding balance of their account as provided for in tariffs filed with the commission. The provider can not discriminate against a single customer of a class of customers in their application and collection of late payment fees except for as provided in this act. The late payment charge is applicable for all telecommunications services. The rate will not exceed 1.5% monthly prorated based on the number of days late.

Discussion: We are assuming that the late payment charges should not just apply to primary basic local exchange service. The provide should be non discriminatory in the application and the rate itself should be capped.

Climax Telephone Company
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Sec 304. (6). A call made to an exchange adjacent to the caller's exchange shall be considered a local call and shall be billed as a local call.

Discussion: Exchange is more accurate; local calling area is inaccurate.

Sec 307. (6). After July 1, 2006, an educational institution shall not sell or receive direct or indirect compensation for any excess capacity for the provision of telecommunication services.

Discussion: The language is much tighter.

Sec 310. (9). This section shall not apply to basic local exchange providers that have 250,000 or fewer customers in the state except for Sec (7) and Sec (8).

Discussion: Small companies less then 250,000 lines should have the ability to file an increase in local rates similar to SBC and Verizon to roll in EUCL.

Sec 312. (3). If adjacent local calling is not available pursuant to Sec 304 (7), upon commission review and approval.....

Discussion: If adjacent exchange local calling is in place, then by Sec 310 (6), toll calling cannot exist. Therefore, the preceding sentence is required.

Sec 102.(x) "Primary Basic Local Exchange Service" means the provision of 1 primary access line to a residential customer for voice communications and a minimum amount of local usage of not fewer than 100 outgoing calls or 4,000 outgoing minutes per month to the local calling area excluding the customer home or resident exchange.

Discussion: Local calling to the person home exchange is typically unlimited in the rural ILECs and probably makes sense here. Also, the 12,000 MOU cap is too high,; 4,000 is reasonable especially if calling is unlimited to the home exchange. Climax has customer calling data by end user for the last three months if you would like to see it. The "more than" clause in this section is going in the wrong direction. SBC is putting on a campaign saying that the local rates will double if the 50 call plan is upped to 100. I would be glad to forward you the email.

Climax Telephone Company
House Bill No. 5237 Sub

Sec 314a (6). Late payment charges as outlined in Sec 304 (5) will not be billed or collected from a qualifying customer.

Discussion: This seems consistent with Sec 314a intent. Late payment charges should not be charged to qualifying customers.

Sec 202.(1).(c). Promulgate rules under section 213 to establish and enforce quality standards for all of the following:

(i) the provision of basic local exchange service.
(ii) the provision of unbundled network elements, analogous services, and local interconnection services to providers.
(iii) the timely transfer of an end user from 1 provider of basic local exchange service to another provider.
(iv) providers of basic local exchange that cease to provide the service to any segment of end users or geographic area, go out of business, or withdraw from the state.

Discussion: This is a last mile protection issue. See the proposed language in Sec 352(3) for the supportive discussion.

Sec 203.(14). Except if there is a request for emergency relief under this section, if the complaint filed under this section involves a dispute between two providers, the commission shall require the parties to utilize the alternative dispute process under section 203a.

Discussion: "Interconnection" should be deleted because the definition is too narrow.

Sec 204. If 2 or more telecommunications providers are unable to agree on a matter relating to a telecommunications service or matter prohibited by section 305, then either telecommunications provider may file with the commission an application for resolution of the matter.

Discussion: "regulated" should be deleted since there is not definition of regulated and the commission should likely have initial jurisdiction over matters between providers.

Climax Telephone Company
House Bill No. 5237 Sub

Sec. 205. The commission shall investigate and resolve complaints under this act. The penalties under this act shall not be imposed for a violation that occurred more than 2 years before the complaint was filed.

Discussion: "may" doesn't denote responsibility. "shall" defines specific responsibility.

Sec 352. (1). The rates of a provider of basic local exchange service for interconnection under this article shall be at the provider's total long run incremental cost of providing the service.

Discussion: The last sentence needs to be deleted since the standard has been set at TSLRIC rates and not at a just and reasonable standard.

Sec 352. (2). Changes U-10647 to U-13531.

Discussion: Reference is the wrong rate case. U-13531 is the rate case approved in November 2004 for SBC.

Sec 352(3) If an incumbent local exchange provider is no longer to provide access to unbundled network elements, the incumbent local exchange carrier shall offer access to analogous services at just and reasonable rates. The commission shall determine whether a service is analogous and establish the incumbent local exchange carrier's pricing at just and reasonable rates.

Discussion: This is the last mile issue that you and I talked about. The FCC in the TRO/TTRO ordered certain offices not to have access to UNEs based on the number of business lines and fiber collocators. When the hurdles are met, the FCC ordered SBC to convert the UNEs to an "analogous service". SBC believes this to be access rates. Those are the $350 a month rates for a T1 which are not cost based and are based on FCC price cap rules. This clause enables the equitable determination of an analogous service. The concept of analogous service has also being written into interconnection contracts by the MPSC but they haven't determined what it means. Our advocacy is that that didn't mean special access or they would have written the TTRO the say such.

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Sec 353. (1) Delete last words "with the basic local exchange service".

Discussion: Interconnection is much broader than basic local exchange service.

Sec 353 (a) When negotiating a successor interconnection agreement, unless the parties agree otherwise, the parities shall use their current interconnection agreement as the baseline document for negotiation, the party requesting in an arbitration proceeding a change to the baseline document bears the burden of persuasion that the change is necessary.

Discussion: This language enables CLECs that have already arbitrated issues in a previous interconnection agreement not to have to rearbitrate the same issues when the term of the agreement expires. This is critical and costs many hours and dollars.

Sec 353(b) If a party negotiating an interconnection agreement wishes to take a position contrary to a prior ruling of the commission in arbitration proceeding, the party shall file a motion with the commission demonstration that good cause exists to relitigate the issue. Such a motion will be filed no later than 90 days from the commencement of negotiations. The commission shall rule upon the motion within 21 days of the filing and determine the extent to which the issue may be relitigated. A party that believes that the other party is taking a position a position contrary to a prior ruling of the commission may also file a motion for a determination under this section.

Discussion: This allow the commission the rule on already decided issues and not have to rehash them through an expensive and timely consuming arbitration process.

Sec 357 (4). Each provider of local exchange service shall file tariffs with the commission which set forth wholesale rates, terms, and conditions for telecommunications services. The wholesale rates shall be set at levels no greater than the provider's charges less the provider's avoided costs.

Discussion: This is consistent with the FTA. The FTA sets charges, billed charges, as the benchmark standard for resale, not current retail rates. The FTA doesn't limit resale to basic local exchange service.

Climax Telephone Company
House Bill No. 5237 Sub

Sec 502. (l). Impose fines or charges for early termination of a service contract that exceed the difference between the rates charges for the applicable period is service at the highest discount level and the rates that would have been charges if the contract was fully completed.

Discussion: This is in a practical sense how the customer is not over billed for early termination. Profit is difficult to measure and the methodology outlined above is more understandable for both the provider and customer.

TechNet

THE Voice OF THE Innovation ECONOMY

In The News

FOR IMMEDIATE RELEASE:
Thursday, July 17, 2003

Contact: Jim Hock
Phone: 202-973-6616

TechNet Releases State-by-State Ranking of Broadband Deployment Policies

Broadband Index Assesses Policies in 25 Top States with Michigan and Florida Leading the Way

Listen to the full audio conference

Palo Alto, CA -- The Technology Network (TechNet), a national network of more than 200 CEOs and senior executives in the high technology and biotechnology industries, today unveiled The State Broadband Index assessing state policies that impact broadband deployment and demand. Michigan and Florida lead the nation in policies that encourage next-generation broadband networks.

"Broadband is the foundation for our nation's continued technological and economic leadership," said Rick White, President and CEO of TechNet. "The states at the top of the Broadband Index have shown leadership in clearing roadblocks to broadband deployment and adopting innovative policies that foster demand for the benefit of their citizens and industry."

Broadband - the capacity to deliver Internet access with a continuous "always on" connection and the ability to both receive and transmit digital content or services at high speeds - has the potential to significantly improve our economy. Universal access to high-speed Internet connections could inject an estimated $300 billion into the U.S. economy each year. According to the Organization for Economic Cooperation and Development (OECD), the U.S. currently ranks sixth in the world in broadband access behind Korea, Canada, Sweden, Denmark and Belgium with a penetration rate of only 6 out of 100 residents having high speed Internet, largely due to the lack of coordinated broadband deployment policies.

With the State Broadband Index, TechNet examines the key role that states can play in making broadband available to all Americans. The report ranks the top 25 states based on the extent to which their public policies spur or impede broadband deployment and demand, and includes a Best Practices Guide to the most innovative state broadband initiatives.

"Michigan's commitment to jump-starting broadband is already

benefiting our citizens and industry," stated Michigan Governor Jennifer Granholm, "The State Broadband Index highlights one of the most critical technology policy challenges facing states today and is a valuable resource to state governments."

"A national broadband strategy will not succeed without a concerted national and state commitment to a business climate that facilitates broadband deployment," stated John Chambers, President and CEO of Cisco Systems and co-founder of TechNet. "We urge the Governors and policymakers in all 50 states to make broadband a priority and to use this report as a roadmap to a comprehensive broadband strategy."

"The State Broadband Index highlights the important role of the states in determining our nation's broadband future," stated Eric Benhamou, Chairman of 3Com Corporation and Palm, "With the right policies and leadership, states can lay the groundwork for the next-generation infrastructure that will drive technological and economic growth, and improve quality of life."

The Broadband Index Top 10 states are:

1. Michigan
2. Florida
3. Missouri
4. Texas
5. Ohio
6. Washington
7. Kansas
8. Virginia
9. Colorado
10. Iowa

The State Broadband Index calls on states to consider a range of policies critical to broadband deployment, including:

- legislation that standardizes and expedites rights-of-way permitting;
- adoption of a state-wide broadband strategy and creation of a lead broadband agency;
- comprehensive infrastructure mapping;
- policies to enable wholesale municipal networks;
- innovative initiatives that increase private sector deployment;
- financial incentives to reach underserved communities; and
- demand-promotion efforts including enhanced e-government.

The TechNet CEO Broadband Task Force, created in spring 2001, includes: John Chambers, CEO of Cisco Systems; John Doerr, Partner with Kleiner Perkins Caufield & Byers; Eric Benhamou, Chairman of 3Com Corporation and Palm Inc.; Paul Gudonis, Executive Vice President of Level 3 Communications; Tony Ley, Chairman and CEO of Harmonic, Inc; Rick Burnes, Partner with Charles River Ventures; John Young, retired President and CEO of

Hewlett Packard; Patrick Gelsinger, Chief Technology Officer of Intel Corporation; Brad Smith, Senior Vice President of Microsoft; Rick Roscitt, Chairman and CEO, ADC Telecommunications; Matt Rhodes, President of Conexant Systems; Milo Medin, former Chief Technology Officer of Excite@Home.

The State Broadband Index
Summary Findings for Top 10 States

1. Michigan

As the leader in aggressive broadband policy, Michigan has implemented the following strategies:

- The LinkMichigan initiative created a formal plan implemented under strong leadership from the Governor
  - The initiative resulted in three legislative acts that created the Michigan Broadband Development Authority, the Michigan Extension Telecommunications Rights-of-Way Oversight Authority and a property tax credit incentive for deployment of new infrastructure.

- Michigan has strategically eliminated barriers to deployment
  - The METRO Act eliminated disparities in rights-of-way access charges and delays across the state, and in the process ensured that the access fees are relatively low and based on cost.
  - Under METRO, Michigan has implemented a fixed right-of-way fee, standardized application, central authority for fee collection, a 45 day time limit on municipality action on permit, a streamlined process for resolution of disputes, and limits on local regulations

- Michigan aggressively promotes broadband deployment
  - Michigan Broadband Development Authority provides loans to broadband providers and users in an effort to fill in the gaps of deployment to under-served communities.
  - Michigan has assessed statewide deployment to pinpoint the areas that lack broadband.
  - A plan to aggregate public-sector network use is currently underway.

- Michigan promotes broadband use and applications
  - MI Department of Corrections uses telemedicine to reduce costs
  - Distance learning is available via Virtual University and Virtual High School

2. Florida

- Florida has strategically eliminated barriers to deployment
  - Florida has simplified right-of-way fees. The Florida Communications Services Tax collects a single tax comprised of a state and local communications service tax. Municipalities receive .24% of the tax in lieu of right-of-way fees.

- Florida actively promotes broadband deployment and broadband access
  - The State Technology Office coordinates state broadband efforts. The STO also oversees Florida's Digital Divide Council Clearinghouse that identifies digital divide efforts, best practices and provides grants to sustain projects.

- The state leases all communications facilities from the telecommunications industry to promote broadband deployment, aggregating their demand.
- In an effort to increase network access points, broadband suppliers receive tax refunds for equipment purchases.
- Public-sector users receive discounts for broadband access
- Florida encourages the use of Wi-Fi deployment, using high encryption standards.

- Florida actively uses and encourages innovative broadband applications
  - Delivering pediatric care through telemedicine and the initiative of Telehealth & Education
  - Distance learning through Virtual Schools and libraries
  - homeland security via the Law Enforcement Radio System
  - Development of Intelligent Transportation Systems
  - Streaming video of legislative activity.

3. Missouri

- Missouri has taken steps to eliminate impediments from right-of-way permits
  - 31 day limit for municipalities to take action on right-of-way permit requests for specific excavations
  - Fees are based on the actual substantiated costs reasonably incurred by the political subdivision in managing the public right of way.
  - Local regulations that set requirements unrelated to right-of-way usage and charging for in-kind compensation in return for ROW are prohibited.
  - Provides a streamlined resolution for rights-of-way disputes.

- Missouri owns a backbone, MORENet, which provides innovative application to the public-sector
  - Provides Internet connectivity, access to Internet2, technical support, videoconferencing services and training to Missouri's K-12 schools, colleges and universities, public libraries, health care, state government and other affiliates.

- Missouri has promoted broadband applications through telemedicine funding and distance learning programs.

4. Texas

- Texas has developed a strategic plan under the Telecommunications Infrastructure Fund Board.
  - The fund awards grants and loans for educational institutions, libraries, and non-profit hospitals (it looks like the governor vetoed it in the budget…)

- Texas has taken steps to eliminate right-of-way barriers to deployment
  - Though Texas does not have a time limit for municipalities to act on permits, it requires that a reasonable effort be made not to delay or cause undue burden

- Municipalities are prohibited from charging in kind compensation beyond ROW fees
- Texas has a fixed fee rate

- Texas actively promotes broadband deployment
  - Texas encourages competitive building access.
  - Texas allows Austin Energy's property to be available for wireless antennas for a fee
  - Texas has gone beyond FCC's unbundling requirements in interconnection disputes.
  - Texas owns Texas Agency Network which provides long distance voice (AT&T) and statewide data services (SBC) to all state agencies. It offers discounts and loans to public sector users for access.

- Texas has a telemedicine program, a distance learning program and streaming video of legislative activity.

5. Ohio

- Ohio has a formal plan in place to guide Ohio's broadband vision
  - Ohio has assessed its broadband deployment in conjunction with the Technology Policy Group to aid deployment efforts.

  The Broadband Initiative is composed of 5 components to spur broadband
  - Ohio Broadband Link is an effort to aggregate the purchasing power of businesses to obtain affordable rates on broadband services
  - Third Frontier Network is a high-speed link for Ohio college and research facilities
  - ECommunities is a pilot program in which the state will provide broadband services to 2 rural Ohio communities
  - EVantage Ohio is an effort to train small businesses about e-commerce
  - The State Coordinating Mechanism coordinates and reviews broadband activity.

- Ohio has taken steps to eliminate right-of-way barriers to deployment.
  - 30 day limit on permit action by municipalities
  - A reasonable cost limit on permit fees, limited to the recovery of the direct incremental costs incurred by the political subdivision in inspecting and reviewing any plans and specifications and in granting the associated permit.

- Ohio's Access Appalachia program assesses the supply and demand of the 29 counties in the Appalachian mountains and outlines a plan for rural deployment
- Ohio actively uses broadband application through its telemedicine program, Ohio One; several distance learning networks, and streaming video of the legislature.

6. Washington

- Washington has taken steps to eliminate right-of-way barriers
  - Limits the number of days for a municipality to act to 30 days
  - Uses a reasonable cost limit for permit fees
  - Prohibits local regulations that set requirements unrelated to rights-of-way usage
  - Prohibits municipalities from charging in kind compensation for ROW access

- Washington actively promotes broadband deployment
  - Washington encourages competitive building access.
  - Washington operates its own state-owned backbone, K-20 and Statewide Enterprise Network.
  - Washington Department for Community Trade and Development provides grants to suppliers for broadband deployment.
  - Wash has a Center to Bridge the Divide to address the digital divide.

- Washington supports the development of online application for government applications.
  - Washington State's Department of Information Services established a Digital Government Applications Academy where state agencies work together and collaborate to create online applications for their needs. Projects result in an Applications Template and Outfitting Model (ATOM), which provides a guide to building and implementing Internet applications and includes information on policies, business, technical, project management, and authorizing requirements for government e-commerce applications.

7. Kansas

- Kansas has taken steps to eliminate the right-of-way barriers to deployment
  - 30 day limit for municipalities to act on permits
  - Municipalities are prohibited from charging in –kind compensation beyond ROW fees
  - Fees are limited to reasonable cost
  - Kansas regulates wholesale broadband access beyond FCC mandated unbundling.

- Kansas has a map of current broadband deployment to aid further investments.
- Kansas' Kan-ed network supplies access for schools, libraries and hospitals. Through this network Kansas provides telemedicine and distance learning.

- Kansas has innovative broadband applications such as video arraignment services and live streaming audio of legislative activities.

8. Virginia

- Virginia has developed a formal broadband plan under the Secretary of Technology Virginia Center of Innovative Technology. The plan has 8 initiatives

- **Revolutionize service delivery to our customers** through implementation of a customer-facing Internet portal and increasing the quantity, quality, and adoption of online services, particularly in the area of online licensure and interactive forms.
- **Consolidate IT infrastructure and provide centralized services** as a technology utility. The plan also calls for developing a comprehensive, statewide information security program and for overhauling state administrative systems in the area of finance, planning and budgeting, and human resources.
- **Plan, budget, and track IT expenditures** by developing a capital planning and funding process for IT, developing a comprehensive technology management policy, and improving systems to track IT expenditures.
- **Manage IT procurement** by developing and implementing a best practice model for effective and timely IT procurements.
- **Increase federal research and development funding** to industry and Virginia's colleges and universities, including historically black colleges and universities
- **Increase commercialization of intellectual property** from Virginia's labs, entrepreneurs, and institutions of higher education, and grow entrepreneurial companies.
- **Increase statewide broadband deployment,** especially in Virginia's rural areas, to enhance economic development.
- **Promote technology-based economic development** in Virginia by "growing" technology companies.

- Virginia has taken steps to eliminate right-of-way barriers to deployment
  - 45 day limit on permits
  - fixed rate for fees, prohibits municipalities from in-kind compensation

- Virginia's state-owned property is available for wireless antennas.

- Virginia is active in promoting broadband access
  - CovaNet and Net.Work. Virginia provides access for both the public and private sector at discount rates
  - COVANet brings infrastructure into areas that otherwise may not be served.
  - Virginia aggregates demand for schools, agencies and libraries.
  - Virginia has a digital divide program

- Virginia has actively supported broadband applications
  - Virginia telemedicine network
  - Distance learning
  - Wireless E-911

9. Colorado

- Colorado has taken steps to eliminate right-of-way barriers to deployment
  - Encourages coordinated rights-of-way with multiple providers.
  - Reasonable cost limit to fees.
  - Prohibits municipalities from demanding in kind compensation beyond ROW fees

- Colorado makes state-owned property available to wireless antennas
- Colorado High Speed Digital Network and the Multi-use Network is a private/public partnership
  - The MNT aggregates state networks for libraries, schools, local governments, and hospitals
  - The High Speed Digital Network allows businesses to connect for a low price

- Rural Technology Enterprize Zone provides tax incentives for rural deployment.
- Colorado actively promotes the use of broadband applications
  - Expanding telemedicine services
  - Distance learning K-12 programs
  - Live streaming of governor's state of the state address

10. Iowa

- Iowa has taken steps to eliminate right-of-way barriers to deployment
  - Offers streamlined resolution of disputes
  - State encourages coordinated rights of way with multiple providers
  - Reasonable cost limits on fees
  - Prohibition on municipalities to ask for in kind compensation for ROW access

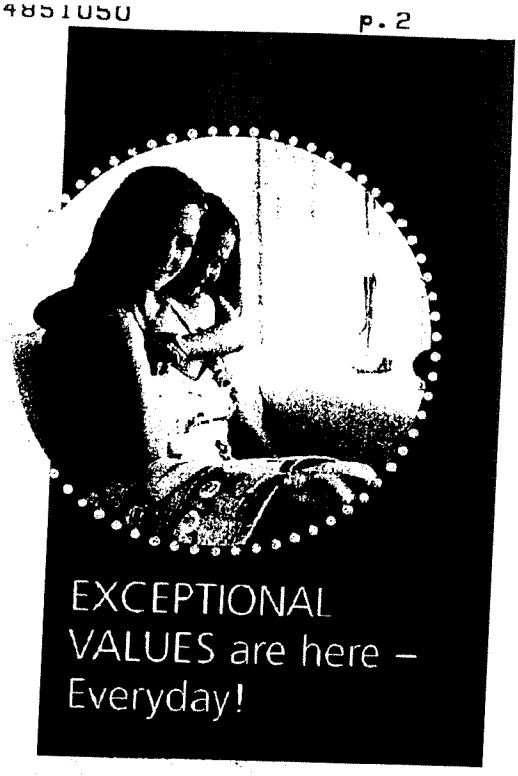
- Iowa Communications Network- The Iowa Communications Network offers applications such as distance learning, telemedicine, telejustice to schools, libraries, hospitals and law enforcement agencies through its statewide network.

SBC

RECONNECT FOR LESS

August 19, 2004

000158-3-19
Mark Iannuzzi
39992 Brylor Ct
Clinton Township MI 48038-3003



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Internet World Stats
Usage and Population Statistics

Broadband Usage Keeps Growing

By Enrique De Argaez, webmaster

Nielsen//NetRatings, the global standard for Internet audience measurement and analysis, reports that in the United States there are 39 million, or 13 percent of Americans, connecting via broadband in the U.S., the highest number to date. Broadband users at-home grew 49 percent year-over-year, while narrowband users declined 12 percent during May 2003 (see Table 1).

Despite higher growth rates for broadband, there are nearly twice as many narrowband users as broadband users in the U.S. In comparison, last year there were three times as many narrowband users as broadband users. Narrowband users continue to outweigh broadband users with 69.6 million users.

Table 1. Internet Connection Speed Growth Rates (U.S., At-Home)

Speed	May 2002	May 2003	Change %
Broadband Total	26,113,000	38,957,000	49.2 %
Narrowband Total	79,444,000	69,647,000	-12.3 %
Modem 14.4K	3,966,000	3,454,000	-12.9 %
Modem 28.8/33.6K	12,014,000	10,118,000	-15.8 %
Modem 56K	63,465,000	56,075,000	-11.6 %

Source: Nielsen//NetRatings, May 2003

Yankee Group estimates that the current 26.2 million broadband households in the USA of 2003 will grow to 61.5 million by 2008.

Table 2. Projected U.S. Broadband Usage, At-Home, 2002-2008

Year	Usage (in millions)	Increase (in millions)
2002	18.9	n/a
2003	26.2	7.3
2004	33.5	7.3
2005	41.0	7.5
2006	48.1	7.1
2007	55.2	7.1
2008	61.5	6.3

Note: includes cable modem, DSL, T1 lines, broadband wireless, satellite, first mile fiber, and powerline broadband.
Source: Yankee Group, August 2003

San Diego, Phoenix and Detroit Lead Broadband Wired Cities in the United States

Nielsen//NetRatings, the global standard for Internet audience measurement and analysis, reported the top local markets connected via broadband at-home during the month of August 2004. Tracking 35 local markets in the U.S., Nielsen//NetRatings found that the cities of San Diego, Phoenix, Detroit, New York and Sacramento represented the top five wired local markets connected via broadband access with penetration rates of 65 percent or higher

Local Market USA	Percentage of Broadband within Local Market
1. San Diego	69.6
2. Phoenix	68.4
3. Detroit	67.0
4. New York	66.8
5. Sacramento	64.9
6. Orlando	64.7
7. Seattle	63.0
8. San Francisco	63.0
9. Los Angeles	61.6
10. Boston	61.4

Source: Nielsen//NetRatings, September, 2004
Click here to read more.

The US Commerce Department has published a report on 2004 Broadband use in the United States .

Broadband in Other World Regions

In Europe, in Asia, and everywhere Broadband is also gaining users daily. Figures for selected countries are given below, from International Telecommunication Union (ITU) data and other trustworthy sources regarding broadband users. The table will grow as more data becomes available.

Table 3. Broadband Penetration in Select Countries.

Country or Region	Broadband Subscribers	Data Source and Date
Australia	1,000,000	N/NR - May/2003
Austria	540,000	ITU - Dec/2002
Belgium	869,000	ITU - Dec/2002
Canada	3,600,000	ITU - Dec/2002
China	43,000,000	CNNIC - June/2004
Denmark	462,000	ITU - Dec/2002
Finland	274,000	ITU - Dec/2002
Hong Kong	989,000	ITU - Dec/2002
Hungary	260,000	KSH - Dec/2003
Iceland	25,000	ITU - Dec/2002
Japan	7,806,000	ITU - Dec/2002
Korea	10,128,000	ITU - Dec/2002
Netherlands	1,060,000	ITU - Dec/2002
Norway	158,000	SN - Dec/2002
Singapore	392,000	IWS - Dec/2003
Sweden	693,000	ITU - Dec/2002
Switzerland	455,000	ITU - Dec/2002
Taiwan	3,170,000	FIND - June/2004
United Kingdom	4,000,000	Ofcom - May/2004
U.S.A.	26,200,000	Y.G. - Aug/2003

Sources: (1) International Telecommunications Union (ITU), (2) CNNIC, (3) Taipei Times, (4) Ofcom, (5) Yankee Group, (6) Nielsen//NetRatings, (6) KSH , (7) Statistics Norway.

IWS

2003 BROADBAND DEVELOPMENTS

For the year end of 2003 there will be more than 100 million broadband lines worldwide. This conclusion is based on Point Topics full analysis of the broadband statistics for end-September 2003. It includes all kinds of mass-market broadband services - whether over the telephone network (DSL), over cable TV networks (via cable modems) or over fibre-optic cables.

The Q3 2003 results show that the worldwide total of broadband lines grew to 89.4m, an increase of 10m from the 79.4m lines at the end of June. Maintaining the same percentage growth in the fourth quarter of

2003 will have taken the worldwide number past 100m. In fact growth in the fourth quarter is usually faster than in the third.

This means that broadband is clearly established as one of the fastest growing new technologies in history. Broadband is growing much faster than mobile phone usage did - so far at least. It took mobile phones about 5.5 years to grow from 10m to 100m worldwide. Broadband has achieved the same growth in only 3.5 years.

Other major broadband developments in 2003 include:

The market is maturing. Broadband is not just an oddity in a few unusual countries any more. All the worlds major economies - the Group of Seven countries plus China - are now in the top ten as far as the total number of broadband lines is concerned.

China is rapidly becoming the worlds biggest broadband power. With over 17m broadband lines today, it will overtake even the USA eventually.

Growth in Korea is levelling off. Korea is still the world leader in broadband take-up, with over 25 broadband lines for every 100 people. But the number of new lines added is relatively small now and the main emphasis is on migrating customers to higher-speed services.

Broadband prices have been reduced sharply. For example, the major DSL operators cut their prices by 25% on average in the year to September 2003. This is an important factor driving take-up.

Some broadband value-added services are starting to take off. One leading example is the boom in voice-over-IP services in Japan. Broadband service providers such as Yahoo BB and others are now cutting deeply into NTTs voice revenues with over 5m customers for low-cost telephone service.

The cable networks are losing market share of broadband - but only slowly. Telco price cutting, wider coverage and greater financial strength means that DSL is showing bigger precentage increases than cable in most countries.

The **United Kingdom** now has four million broadband subscribers, according to the latest figures from industry regulator Oftel.

In its latest Internet and Broadband Brief, Ofcom says that there are 2,450,000 ADSL users and an estimated 1,540,000 cable subscribers. These figures do not include businesses with leased lines.

In Hungary Broadband usage is up, according to a report from the Hungarian Central Statistical Office (KSH). As of the end of last year, the number of broadband subscribers in the country has increased from 63,000 to 260,000.

DSL Developements

Some 63.8 million people around the world are now connected to the Internet via DSL, reports DSL Forum, based in Fremont, Calif., a consortium of companies promoting use of the standard. The figures show that DSL attracted 28 million new subscribers during 2003.

U.S. DSL growth in the last six months of 2003 resulted in 1.9 million homes and businesses signing up. Canada had more than 440,000 new DSL subscribers in the year, making it the eleventh-largest growth country in the world in DSL.

In terms of penetration, South Korea, with 27.7 DSL connections per 100 phone lines, led the world. Next was Taiwan, with 21.4 connections per 100 phone lines, Japan with 14.4, and Canada with 10.9. The United States has 4.8 DSL connections per 100 phone lines.

In total connections, China ranked first in the world in DSL connections, with more than 10.95 million subscribers, followed closely by Japan, with 10.2 million and the United States, with 9.1 million. Canada was in ninth place, with 2.1-million subscribers.

At a 10.9-per-cent penetration of phone lines, DSL services in Canada are halfway to the DSL Forum's mass-market target of 20 per cent by year-end 2005. The United States reached almost 5 per cent phone-line penetration at the end of 2003.

The DSL Forum's global target is 200-million DSL subscribers — 20 per cent of all phone lines worldwide— by the end of 2005.

About the Author:
Enrique De Argaez is the webmaster of the "Internet World Stats" website. Since 2000 he has been collecting Internet Usage Statistics, and publishing the data for over 233 countries and regions of the world for free use by the academia, the global business community and the general public. For more information on Internet World Usage, please visit: http://www.InternetWorldStats.com

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